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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,375	09/13/2000	Hannes Eberle	23453-020	8034

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EXAMINER	
LERNER, MARTIN	

ART UNIT	PAPER NUMBER
2626	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/661,375	EBERLE ET AL.	
	Examiner	Art Unit	
	Martin Lerner	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *27 to 36 and 38 to 45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *27 to 36 and 38 to 45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 27, 28, 34, 35, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lumelsky* in view of *Ladd et al. ('359)*.

Concerning independent claims 27 and 28, *Lumelsky* discloses a method and system for singlecast interactive radio system, comprising:

"means for providing at least one voice service, to which a plurality of users may subscribe, that can output personalized content during an interactive voice broadcast" – in general, the singlecast interactive radio system 100 delivers digitized audio-based content to subscribers upon their request; the system preferably includes a plurality of user terminals (column 8, lines 37 to 46: Figure 1); associated with each user is a profile, which defines the user's topics of interest ("personalized content") (column 19, lines 53 to 56);

"means for generating content for the at least one voice service when the at least one voice service is executed" – content authoring tools enable content creators (e.g. news service providers) to produce a highly compressed voice-based information

content to be stored on data network (e.g. Internet) servers, such as the data repository 401 (column 8, lines 46 to 50: Figure 1);

"means for generating a unique active voice page for each subscriber of the at least one voice service, wherein a unique active voice page comprises personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content" – personal radio station servers (PRSSs) 201 store multiple subscribers' profiles with topics of individual interest, and assemble content material from various Web sites according to topics (column 8, lines 50 to 53: Figure 1); associated with each user is a profile, which defines the user's topics of interest ("personalized content"); the profile content is typically defined in terms of a list of topic categories, e.g. international news, sports news, business news, etc. (column 19, lines 53 to 58); when a subsequent session is initiated, the user will receive all information listed in the user's list of topics, but only that information pertaining to the user selected topics of interest (column 10, line 63 to column 11, line 13); via a pre-fetching mechanism, i.e. using the profiles and noted access patterns of the user, the PRSS may anticipate which information may be of interest in the near future and retrieve such data so that the data is available at the PRSS upon user request; cache-based systems on the market include Netscape® (column 20, lines 40 to 52); a user's list of topics of interest defines "a unique active voice page generated for the subscriber";

"means for initiating an outbound communication to the subscriber to establish an interactive voice broadcast with the subscriber" – personal radio station servers (PRSSs) 201 transmit the content to a subscriber's user terminal 301, on the

subscriber's request, over the wireless network 403 (column 8, lines 50 to 55: Figure 1); there are preferably two distinct methods of information retrieval via the PRSS directory services; one method is based on assembling the information on all the topics of interest; when a subsequent session is initiated, the user will receive all information listed in the user's list of topics, but only that information pertaining to the user selected topics of interest; "push technology" permits a user to create a profile and to receive information on topics identified in his profile via the previously established search criteria (column 10, line 63 to column 11, line 30); implicitly, "push technology" involves "initiating an outbound communication to the subscriber".

Concerning independent claims 27 and 28, *Lumelsky* discloses "a subscriber's unique active voice page" having "personalized content to the subscriber" is created by personalizing a list of topic categories of interest for a user profile, whereby a user is enabled to interact in real-time, implicitly, to select a type of information for retrieval. (Column 19, Line 53 to Column 20, Line 24) *Lumelsky* does not expressly disclose that a subscriber is enabled "to respond to the personalized content via one or more input elements embedded in the active voice page", as set forth by the limitations of "and further comprises one or more input elements embedded in the unique active voice page used to request input from the subscriber" and "dynamically interacting with the subscriber in real-time during the subscriber's interactive voice broadcast by presenting the personalized content to the subscriber from the subscriber's unique active voice page, and by enabling the subscriber to respond to the personalized content via the one or more input elements embedded in the subscriber's unique active voice page." That

is, *Lumelsky* notes web pages, e.g. Netscape (column 20, lines 49 to 52), but does not say that there is a displayed active voice page having embedded links through which a user may interact by voice commands. Still, it is well known for web pages to provide interactive speech applications including VoxML™ for permitting a user into interact with links on a displayed web page through voice commands.

Concerning independent claims 27 and 28, *Ladd et al. ('359)* teaches a markup language for interactive services where information from a service provider is downloaded in real-time (i.e. the information is downloaded contemporaneously with a request for information). (Column 1, Lines 29 to 32) A network access apparatus 102 includes a voice or web browser 250 including Netscape Navigator® or Microsoft Internet Explorer® (column 3, lines 50 to 52), and provides for an interactive speech application using a markup language such as VoxML™. (Column 4, Line 66 to Column 5, Line 2) A voice browser 250 permits a user to interact through the use of an OPTION element within an INPUT element to select options of weather, news, or traffic by voice commands. (Column 27, Lines 4 to 30; Column 36, Line 26 to Column 41, Line 60) An OPTION element with an INPUT element of an application using VoxML™ is equivalent to "one or more input elements embedded in the active voice page" for permitting a user to select interactive services for listening to information about weather, news, or traffic. *Ladd et al. ('359)* teaches an interactive system permitting a user to access up-to-date information from any location in the world via any suitable network access device using voice inputs or commands. (Column 2, Lines 18 to 50) It would have been obvious to one having ordinary skill in the art to provide a voice browser using VoxML™ having

one or more input elements embedded in an active voice browser to permit a user to interact in real-time as suggested by *Ladd et al. ('359)* in an interactive radio system of *Lumelsky* for the purpose of permitting a user to access up-to-date information from any location in the world via any suitable network access device using voice inputs or commands.

Concerning claims 34 and 43, *Ladd et al. ('359)* teaches an interactive speech application using a markup language such as VoxML™. (Column 4, Line 66 to Column 5, Line 2)

Concerning claims 35 and 44, *Ladd et al. ('359)* teaches a voice browser 250 permits a user to interact through the use of an OPTION element within an INPUT element to select options of weather, news, or traffic by voice commands. (Column 27, Lines 4 to 30; Column 36, Line 26 to Column 41, Line 60)

Claims 29 to 33, 36, 38 to 42, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lumelsky* in view of *Ladd et al. ('359)* as applied to claims 27 and 28 above, and further in view of *Honarvar et al.*

Concerning 29, 33, 38, and 42, the only elements not expressly disclosed by a combination of *Lumelsky* and *Ladd et al. ('359)* (as discussed above) are "wherein the generated content includes information derived from an on-line analytical processing (OLAP) system" and "where the at least one voice service is executed upon satisfaction of a predetermined condition". While on-line analytical processing (OLAP) is well known for personalized web pages, *Lumelsky* does not expressly teach on-line analytical

processing (OLAP) executed upon satisfaction of a predetermined condition. However, *Honarvar et al.* teaches the use of online analytical processing (OLAP) in a rules based decision management system, where an inbound event is a trigger to identify that a particular client event has occurred. Such events may be automatically generated due to client behavior or systematically produced at specified time intervals. (Column 3, Lines 13 to 22: Figure 2) A triggering event due to client behavior or at specified time intervals is execution "upon satisfaction of a predetermined condition." It is stated that a decision management system using on-line analytical processing (OLAP) can provide superior results, increased revenue generation, improved cost-effectiveness, and enhanced customer relationships. (Column 3, Lines 6 to 9) It would have been obvious to one having ordinary skill in the art to provide on-line analytical processing (OLAP) of a service executed upon satisfaction of a predetermined condition as taught by *Honarvar et al.* in the method for singlecast interactive radio of *Lumelsky* for the purpose of providing superior results, increased revenue, and enhanced customer relationships.

Concerning claims 30 to 32 and 39 to 41, *Honarvar et al.* teaches inbound events for triggering may be systematically produced at specified time intervals (i.e. monthly), or a routine evaluation date (a periodic, scheduled evaluation) ("a scheduled, time-based condition" or "triggering event") (column 3, lines 13 to 23: Figure 2); inbound events may be automatically generated due to client behavior as inbound triggering events ("a predetermined condition") (column 3, lines 13 to 23: Figure 2); clients are segregated for applying different rules; for example, a segment for residential customers

and another for business customers (column 3, lines 23 to 34: Figure 2); implicitly, whether a customer is a residential or business customer is a property "specified by a user when subscribing"; similarly, clients may be grouped based upon how the organization views the clients, by dividing credit card holders into categories of Bronze, Gold, Platinum; implicitly, a type of credit card held by a customer is "specified by a user while subscribing".

Concerning claims 36 and 45, *Honarvar et al.* teaches a software based system 10 receives information from customer information systems 20, and tailors customer interactions based on predictive information and decision strategies; software based system 10 then determines an appropriate action which is to be taken by an action-taking system 30; an appropriate action to be taken could include a call to a customer ("initiating an outbound communication to the subscriber comprises initiating an outbound telephone call") (column 2, line 61 to column 3, line 5: Figure 1).

Response to Arguments

Applicants' arguments filed 27 June 2006 have been fully considered but they are not persuasive.

Firstly, Applicants argue that *Lumelsky* does not teach or suggest that subscriber-specific personalization information for a subscriber is applied to a CES-based file to create personalized content. Applicants admit that *Lumelsky* generally teaches personalization, in that CES-based files can be provided to subscriber based on user (or subscriber) profiles that define topic categories of interest. Moreover,

Applicants admit that *Lumelsky* discloses that associated with each user is a profile, which defines the user's topic categories of interests. This position is traversed.

One having ordinary skill in the art would recognize that each CES-based file inherently has content as audio information and a defined topic. A user's profile defines categories of interest, and a CES-based file is singlecast to a user or subscriber when the topic of CES-based file matches one of the topics in a user's profile. Applicants should not read the prior art in a vacuum, but should interpret the prior art for what it would suggest to one having ordinary skill in the art. *Lumelsky* discloses an authoring process for creating a CES-based file via a CES editor before a CES-based file is placed in data repository 401. (Column 10, Lines 20 to 53: Figure 1) The encoded speech file is then stored in a data repository 401 as a data file with a predetermined structure, e.g. as an HTML document. (Column 10, Lines 54 to 62) If a CES-based file is stored as a data file with a predetermined structure as an HTML document, then, inherently, the data file contains information about the topic of the CES-based file. Indeed, a CES-based file must include information about an associated topic or topics because data repository 401 can be searched to automatically or manually obtain CES-based files for a search term, *e.g.* "weather". (Column 11, Lines 24 to 31) Thus, one skilled in the art would recognize that each CES-based file must contain a topic or topics, inherently, in order for a user to be able to search for a CES-based file from data repository 401.

Secondly, Applicants argue that *Lumelsky* fails to disclose initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the

subscriber. Applicants note that *Lumelsky* discloses "push technology", but maintains that users still request documents by placing a call from a user terminal 301 for *Lumelsky*, so that a communication is initiated by a user. This is not persuasive.

It is maintained that the limitation "initiating an outbound communication to a subscriber" should be broadly interpreted in accordance with principles of broadest reasonable interpretation, and that *Lumelsky* meets the limitation of "initiating an outbound communication to a subscriber" according to principles of broadest reasonable interpretation. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicants always have the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) See MPEP 2111. Here, it is maintained that simply logging on to establish a session by a calling user does not preclude a further outbound communication being later initiated by a server under push technology. Specifically, "initiating an outbound communication to a subscriber" is not the same as positively reciting that a server places a telephone call to a subscriber, or negatively reciting that the subscriber does not call the server. Indeed, "initiating an outbound communication to a subscriber" should not be read as requiring that the server places a call to the subscriber at least under 'principles of claim differentiation', as claims 36 and 45 recite a

further limitation that initiating an outbound communication to a subscriber comprises initiating an outbound telephone call.

Applicants' Specification provides disclosure for a variety of interpretations of what may constitute "initiating an outbound communication to a subscriber." Page 13, Line 12 to Column 14, Line 2, of Applicants' Specification discloses that a session is established when an incoming call is received from a caller and the caller is identified. Then, Page 14, Lines 16 to 20, of Applicants' Specification discloses that a user provides responses. Following a user providing responses, Page 16, Line 10 to Page 17, Line 9, of Applicants' Specification discloses that only then is message content delivered to the user. Thus, it is consistent with principles of broadest reasonable interpretation consistent with the specification that "initiating an outbound communication to a subscriber" may simply be interpreted as delivering the message content to a subscriber after a subscriber establishes a session by making a call to a server.

It is true that Applicants disclose embodiments where subscribers are called by the system. Page 21, Line 8 to 10, of Applicants' Specification states that subscribers may be called by the system, and Page 45, Lines 1 to 8, of Applicants' Specification states that a backend server initiates and assembles voices for transmission through a call server. However, saying that subscribers are called by the system, or that a backend server initiates a transmission through a call server, is not the same as "initiating an outbound communication to a subscriber". The later is subject to a significantly and reasonably broader interpretation.

Therefore, the rejections of claims 27, 28, 34, 35, 43, and 44 under 35 U.S.C. §103(a) as being unpatentable over *Lumelsky* in view of *Ladd et al. ('359)*, and of claims 29 to 33, 36, 38 to 42, and 45 under 35 U.S.C. §103(a) as being unpatentable over *Lumelsky* in view of *Ladd et al. ('359)*, and further in view of *Honarvar et al.*, are proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (571) 272-7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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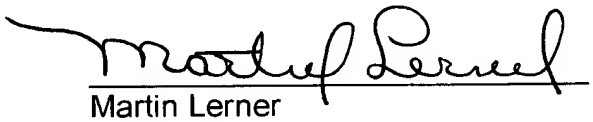

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